

# **EXHIBIT 4**

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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SLY MAGAZINE, LLC,

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Plaintiff,

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vs. 05 CV 3940 (RCC)

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WEIDER PUBLICATIONS L.L.C.

7

AND AMERICAN MEDIA, INC.,

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Defendants.

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DEPOSITION OF RUBY CHARLES

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New York, New York

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Monday, January 9, 2006

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Reported by:

WENDY D. BOSKIND, RPR

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JOB NO. 11489

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1 R. Charles

2 Q. And were you aware that  
3 Sylvester Stallone was sometimes referred  
4 to by his nickname "Sly"?

5 A. No.

6 Q. You had never heard that before?

7 MR. BOSTANY: Object to the  
8 form.

9 A. No.

10 Q. When you picked the name Sly,  
11 did you Google it?

12 A. No, I did not.

13 Q. Did you have anybody Google it?

14 A. I did not have anyone Google it.

15 Q. Did you do anything with respect  
16 to the name Sly to see what else might be  
17 referred to by the name Sly?

18 A. I conducted a search with the  
19 government web site, I conducted a search  
20 there.

21 Q. Is that the Patent And Trademark  
22 Office web site you are referring to?

23 A. Yes, I believe so.

24 Q. Do you ever use Google?

25 A. Yes, sometimes.

1 R. Charles

2 strike that.

3 Is the only reason you decided  
4 not to call the magazine FIERCE because  
5 you had conducted a Patent And Trademark  
6 Office search and found that there had  
7 been a prior mark?

8 A. I believe so. I believe so. We  
9 may have went on-line as well and saw a  
10 magazine that was named -- that was at the  
11 time named FIERCE.

12 Q. When you say you "went on-line",  
13 what would you have done to find that  
14 magazine?

15 A. We may have conducted a search  
16 after the government search on-line.

17 Q. And on what search engine would  
18 you have conducted that search?

19 A. I cannot tell you, I don't  
20 recall.

21 Q. Do you know what a "Thomson and  
22 Thomson search" is?

23 A. No, I do not.

24 Q. Did you publish a domain name  
25 for FIERCE?

1 R. Charles

2 A. Yes.

3 Q. And what was that?

4 A. Women.

5 Q. Approximately what age?

6 A. It could have been a range, it  
7 could have been a certain range. I am not  
8 sure exactly what the range of the age at  
9 that time was.

10 Q. What's the range now?

11 A. 22 to 37.

12 Q. Is there a certain education  
13 level that you have targeted readers to?

14 A. College and above.

15 Q. And what -- at the time that you  
16 started Sly, what was your plan for the  
17 frequency of the publication?

18 A. We planned a number of things --  
19 monthly, bimonthly, and quarterly.

20 Q. Well, at the time of the launch,  
21 what was your --

22 A. I'm sorry, which?

23 Q. At the time of the launch, what  
24 was the plan?

25 A. I am not sure exactly when you

1 R. Charles

2 confusion.

3 Can you turn to Exhibit K of  
4 your declaration. And that first page it  
5 says "page 1 of 2".

6 A. Okay.

7 Q. Can you identify what that  
8 document is?

9 A. This is a photocopy of our  
10 invitation to our launch party.

11 Q. And that document appears to be  
12 dated on the bottom December 29th, 2004.

13 Do you see that?

14 A. Yes.

15 Q. Okay. But the launch party was  
16 actually November 4th, 2004.

17 A. That's correct.

18 Q. Correct?

19 So what is this document? How  
20 did you get -- what does the date refer to  
21 on the bottom of the page?

22 A. This is a printout of the  
23 electronic invitation.

24 Q. And in November -- on November  
25 4th, 2004, if one went to slymagazine.com,

1 R. Charles

2 magazine that's not yet available?

3 A. To our upcoming magazine.

4 Q. But currently, there is no print  
5 version of Sly Magazine; is that correct?

6 MR. BOSTANY: I am just going to  
7 object, asked and answered.

8 But you can answer.

9 A. No, not at this time.

10 Q. Not -- there is no print version  
11 of Sly Magazine at this time; is that your  
12 answer?

13 A. Yes, that's my answer.

14 Q. There were amendments to the  
15 trademark application; is that correct?

16 A. Yes, I believe so.

17 Q. And do you recall why the  
18 trademark application was amended?

19 A. I am not sure. I don't recall.

20 Q. Is all of the content that has  
21 ever been available on slymagazine.com  
22 still currently available on the site?

23 A. No, it is not.

24 MS. KOHLMANN: I am going to  
25 mark, as Ruby Charles Exhibit 3.

1 R. Charles

2 the same.

3 Q. Okay, thanks very much.

4 MS. KOHLMANN: You want to take  
5 a break?

6 (Recess taken: 1:55 p.m. -  
7 1:58 p.m.)

8 Q. When do you anticipate the print  
9 magazine will be available?

10 A. Well, let me clarify myself  
11 first.

12 We are expanding our efforts  
13 from our current magazine to create a  
14 print magazine, and it's going to contain  
15 more information than what we have  
16 currently on-line.

17 Q. And when will that print  
18 magazine be available?

19 A. The print magazine is scheduled  
20 to be on shelves on July -- on or about  
21 July 15th.

22 Q. July 15th of 2006?

23 A. That's correct.

24 MR. BOSTANY: I am just going to  
25 say something to her. There is no